

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA and the  
STATE OF CALIFORNIA *ex rel.*,  
SHELBY EIDSON,

*Plaintiffs,*

vs.

AURORA LAS ENCINAS LLC, LINDA  
PARKS, SIGNATURE HEALTHCARE  
SERVICES LLC, AND DOES 1  
THROUGH 10, jointly and severally,  
*Defendants.*

Case No.: CV 10-1031 JAK (RZx)  
(Hon. John A. Kronstadt)

**ORDER RULING ON RELATOR'S  
OBJECTIONS TO THE  
DECLARATION OF ALAN G.  
GILCHRIST IN SUPPORT OF  
DEFENDANTS AURORA LAS  
ENCINAS, LLC AND SIGNATURE  
HEALTHCARE SERVICES, LLC'S  
MOTION TO DISMISS PURSUANT  
TO RULE 12(b)(1) OF THE  
FEDERAL RULES OF CIVIL  
PROCEDURE  
(DKT. 356)**

Date: April 8, 2013  
Time: 8:30 a.m.  
Ctvm: 750

**TO THE UNITED STATES COURT FOR THE CENTRAL DISTRICT  
OF CALIFORNIA AND TO ALL PARTIES AND THEIR ATTORNEYS OF  
RECORD:**

Plaintiff/Relator Shelby Eidson hereby submits the following evidentiary objections to the Declaration of Alan G. Gilcrest in Support of Defendants' Motion to Dismiss.

<u>Material Objected To</u>	<u>Grounds for Objection</u>
Objection No. 1 Para. 2: 7-8 "showing that the patient could not actually read sign language"	Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) ("Attorney argument is no substitute for evidence.").  <b>Ruling: Sustained; but does not affect admissibility of exhibit.<sup>1</sup></b>
Objection No. 2 Para. 3:10-11	Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104);

---

<sup>1</sup> Same ruling for each subsequent objection.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	“reflecting her lack of personal knowledge with regard to Patient No. 11’s inability to read sign language”	Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).
17 18 19 20 21 22 23 24 25 26 27 28	Objection No. 3 Para. 4:13-14 “showing her lack of personal knowledge with regard to the alleged rape of Patient No. 21”	<b>Ruling: Sustained</b>  Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<p><i>Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
<p>Objection No. 4 Para. 5:17 “showing her lack of personal knowledge of patient No. 24”</p>	<p>Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
<p>Objection No. 5 Para. 6(a):20-21 “showing that one-on-one monitoring</p>	<p>Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time</p>

1 was always started or discontinued  
2 through physician order”

(Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

**Ruling: Sustained**

16 Objection No. 6  
17 Para. 6(b):23-25  
18 “showing that one-on-one monitoring  
19 was always started or discontinued  
20 through physician order”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.

1		2005) (“Attorney argument is no
2		substitute for evidence.”).
3		
4		<b>Ruling: Sustained</b>
5		
6	Objection No. 7	Speculative (Fed. R. Evid. 602);
7	Para. 6(c):27 and 6(c):1-2	Lacks Foundation (Fed. R. Evid. 104);
8	“showing that one-on-one monitoring	Prejudicial, confusing, waste of time
9	was always started or discontinued	(Fed. R. Evid. 403); Arguments of
10	through physician order”	counsel are not evidence. 22 Fed. Prac.
11		& Proc. Evid. § 5163 (1st ed.)(citing 1
12		Devitt & Blackmar, Federal Jury
13		Practice and Instructions, 2d ed. 1970, p.
14		211.) <i>Also see British Airways Bd. v.</i>
15		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
16		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
17		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
18		2005) (“Attorney argument is no
19		substitute for evidence.”).
20		
21		<b>Ruling: Sustained</b>
22		
23		
24	Objection No. 8	Speculative (Fed. R. Evid. 602);
25	Para. 6(d):4-6	Lacks Foundation (Fed. R. Evid. 104);
26	“showing that one-on-one monitoring	Prejudicial, confusing, waste of time
27	was always started or discontinued	(Fed. R. Evid. 403); Arguments of
28		

1 through physician order”

counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

**Ruling: Sustained**

15 Objection No. 9  
16 Para. 6(e):8-10  
17 “showing that one-on-one monitoring  
18 was always started or discontinued  
19 through physician order”

Speculative (Fed. R. Evid. 602);  
Lacks Foundation (Fed. R. Evid. 104);  
Prejudicial, confusing, waste of time  
(Fed. R. Evid. 403); Arguments of  
counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	substitute for evidence.”).
	<b>Ruling: Sustained</b>
<p>Objection No. 10</p> <p>Para. 6(f):13-15</p> <p>“showing that one-on-one monitoring was always started or discontinued through physician order”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
<p>Objection No. 11</p> <p>Para. 6(g):17-19</p> <p>“showing that one-on-one monitoring was always started or discontinued through physician order”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac.</p>



1		& Proc. Evid. § 5163 (1st ed.)(citing 1
2		Devitt & Blackmar, Federal Jury
3		Practice and Instructions, 2d ed. 1970, p.
4		211.) <i>Also see British Airways Bd. v.</i>
5		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
6		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
7		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
8		2005) (“Attorney argument is no
9		substitute for evidence.”).
10		
11		<b>Ruling: Sustained</b>
12		
13		
14	Objection No. 12	Speculative (Fed. R. Evid. 602);
15	Para. 6(h):21-23	Lacks Foundation (Fed. R. Evid. 104);
16	“showing that one-on-one monitoring	Prejudicial, confusing, waste of time
17	was always started or discontinued	(Fed. R. Evid. 403); Arguments of
18	through physician order”	counsel are not evidence. 22 Fed. Prac.
19		& Proc. Evid. § 5163 (1st ed.)(citing 1
20		Devitt & Blackmar, Federal Jury
21		Practice and Instructions, 2d ed. 1970, p.
22		211.) <i>Also see British Airways Bd. v.</i>
23		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
24		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
25		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
26		2005) (“Attorney argument is no
27		substitute for evidence.”).
28		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<b>Ruling: Sustained</b>
<p>Objection No. 13</p> <p>Para. 7(a):25-26</p> <p>“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 1 and ordering of one-on-one monitoring”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
<p>Objection No. 14</p> <p>Para. 7(b):2-3</p> <p>“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 12 and ordering of one-on-one monitoring”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1</p>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

**Ruling: Sustained**

Objection No. 15  
Para. 7(c):5-6  
“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 13 and ordering of one-on-one monitoring”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<b>Ruling: Sustained</b>
<p>Objection No. 16</p> <p>Para. 7(d):8-9</p> <p>“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 15 and ordering of one-on-one monitoring”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
<p>Objection No. 17</p> <p>Para. 7(e):11-12</p> <p>“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 34 and ordering of one-on-one monitoring”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury</p>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

**Ruling: Sustained**

Objection No. 18  
Para. 7(f):15-16  
“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 37 and ordering of one-on-one monitoring”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

**Ruling: Sustained**

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	<p>Objection No. 19</p> <p>Para. 7(g):18-19</p> <p>“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 38 and ordering of one-on-one monitoring”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
19 20 21 22 23 24 25 26 27 28	<p>Objection No. 20</p> <p>Para. 7(h):21-22</p> <p>“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 50 and ordering of one-on-one monitoring”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v.</i></p>

1		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
2		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
3		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
4		2005) (“Attorney argument is no
5		substitute for evidence.”).
6		
7		<b>Ruling: Sustained</b>
8		
9		
10	Objection No. 21	Speculative (Fed. R. Evid. 602);
11	Para. 8:24-25	Lacks Foundation (Fed. R. Evid. 104);
12	“showing that the patient was admitted to	Prejudicial, confusing, waste of time
13	a locked unit and them placed on an	(Fed. R. Evid. 403); Arguments of
14	administrative hold”	counsel are not evidence. 22 Fed. Prac.
15		& Proc. Evid. § 5163 (1st ed.)(citing 1
16		Devitt & Blackmar, Federal Jury
17		Practice and Instructions, 2d ed. 1970, p.
18		211.) <i>Also see British Airways Bd. v.</i>
19		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
20		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
21		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
22		2005) (“Attorney argument is no
23		substitute for evidence.”).
24		
25		<b>Ruling: Sustained</b>
26		
27	Objection No. 22	Speculative (Fed. R. Evid. 602);
28		

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	<p>Para. 9:2-3</p> <p>“showing her lack of personal knowledge with regard to the circumstances pertaining to Patient No. 26 being admitted to a locked unit”</p>	<p>Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
18 19 20 21 22 23 24 25 26 27 28	<p>Objection No. 23</p> <p>Para. 10:7</p> <p>“evidencing the fact that a fire alarm did go off”</p>	<p>Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir.</p>



1		1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
2		2005) (“Attorney argument is no
3		substitute for evidence.”).
4		
5		<b>Ruling: Sustained</b>
6		
7		
8	Objection No. 24	Speculative (Fed. R. Evid. 602);
9	Para. 11:9-10	Lacks Foundation (Fed. R. Evid. 104);
10	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
11	with regard to the fire discussed in her	(Fed. R. Evid. 403); Arguments of
12	Fourth Amended Complaint”	counsel are not evidence. 22 Fed. Prac.
13		& Proc. Evid. § 5163 (1st ed.)(citing 1
14		Devitt & Blackmar, Federal Jury
15		Practice and Instructions, 2d ed. 1970, p.
16		211.) <i>Also see British Airways Bd. v.</i>
17		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
18		1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
19		2005) (“Attorney argument is no
20		substitute for evidence.”).
21		
22		<b>Ruling: Sustained</b>
23		
24		
25		
26	Objection No. 25	Speculative (Fed. R. Evid. 602);
27	Para. 12(a):13-14	Lacks Foundation (Fed. R. Evid. 104);
28		

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p>	<p>“showing distinctive discharge planning and an absence of ‘patient dumping’”</p>	<p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
<p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>Objection No. 26</p> <p>Para. 12(b):18-19</p> <p>“showing distinctive discharge planning and an absence of ‘patient dumping’”</p>	<p>Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i></p>

1		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
2		2005) (“Attorney argument is no
3		substitute for evidence.”).
4		
5		<b>Ruling: Sustained</b>
6		
7	Objection No. 27	Speculative (Fed. R. Evid. 602);
8	Para. 13(a):21-22	Lacks Foundation (Fed. R. Evid. 104);
9	“demonstrating her lack of personal	Prejudicial, confusing, waste of time
10	knowledge as to the circumstances	(Fed. R. Evid. 403); Arguments of
11	surrounding Patient No. 27’s discharge”	counsel are not evidence. 22 Fed. Prac.
12		& Proc. Evid. § 5163 (1st ed.)(citing 1
13		Devitt & Blackmar, Federal Jury
14		Practice and Instructions, 2d ed. 1970, p.
15		211.) <i>Also see British Airways Bd. v.</i>
16		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
17		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
18		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
19		2005) (“Attorney argument is no
20		substitute for evidence.”).
21		
22		<b>Ruling: Sustained</b>
23		
24		
25	Objection No. 28	Speculative (Fed. R. Evid. 602);
26	Para. 13(b):24-25	Lacks Foundation (Fed. R. Evid. 104);
27	“demonstrating her lack of personal	Prejudicial, confusing, waste of time
28		

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	knowledge as to the circumstances surrounding Patient No. 28's discharge"	(Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v.</i> <i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i> <i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir. 2005) ("Attorney argument is no substitute for evidence.").
16 17 18 19 20 21 22 23 24 25 26 27 28	Objection No. 29 Para. 14:2-3 "showing legitimate bases for issuance of passes"	<b>Ruling: Sustained</b>  Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v.</i> <i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i> <i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.

1		2005) (“Attorney argument is no
2		substitute for evidence.”).
3		
4		<b>Ruling: Sustained</b>
5		
6	Objection No. 30	Speculative (Fed. R. Evid. 602);
7	Para. 15:5	Lacks Foundation (Fed. R. Evid. 104);
8	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
9	as to Patient No. 29’s inpatient passes”	(Fed. R. Evid. 403); Arguments of
10		counsel are not evidence. 22 Fed. Prac.
11		& Proc. Evid. § 5163 (1st ed.)(citing 1
12		Devitt & Blackmar, Federal Jury
13		Practice and Instructions, 2d ed. 1970, p.
14		211.) <i>Also see British Airways Bd. v.</i>
15		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
16		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
17		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
18		2005) (“Attorney argument is no
19		substitute for evidence.”).
20		
21		<b>Ruling: Sustained</b>
22		
23		
24	Objection No. 31:	Speculative (Fed. R. Evid. 602);
25	Para. 16:7-8	Lacks Foundation (Fed. R. Evid. 104);
26	“showing that no passes were issued to	Prejudicial, confusing, waste of time
27	this patient”	(Fed. R. Evid. 403); Arguments of
28		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

**Ruling: Sustained**

Objection No. 32:  
Para. 17:10-11  
“showing her lack of personal knowledge as to the fact that Patient No. 30 did not receive inpatient passes”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no

1		substitute for evidence.”).
2		
3		<b>Ruling: Sustained</b>
4		
5	Objection No. 33:	Speculative (Fed. R. Evid. 602);
6	Para. 18:13-16	Lacks Foundation (Fed. R. Evid. 104);
7	“showing that the patient was admitted	Prejudicial, confusing, waste of time
8	when there were no adolescent	(Fed. R. Evid. 403); Arguments of
9	psychiatric beds available in Los Angeles	counsel are not evidence. 22 Fed. Prac.
10	County, and kept on one-on-one	& Proc. Evid. § 5163 (1st ed.)(citing 1
11	supervision until the patient was placed	Devitt & Blackmar, Federal Jury
12	in an adolescent bed”	Practice and Instructions, 2d ed. 1970, p.
13		211.) <i>Also see British Airways Bd. v.</i>
14		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
15		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
16		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
17		2005) (“Attorney argument is no
18		substitute for evidence.”).
19		
20		<b>Ruling: Sustained</b>
21		
22		
23	Objection No. 34:	Speculative (Fed. R. Evid. 602);
24	Para. 19:19-20	Lacks Foundation (Fed. R. Evid. 104);
25	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
26	with regard to the circumstances	(Fed. R. Evid. 403); Arguments of
27	surrounding Patient No. 33’s admission”	counsel are not evidence. 22 Fed. Prac.
28		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

& Proc. Evid. § 5163 (1st ed.)(citing 1  
Devitt & Blackmar, Federal Jury  
Practice and Instructions, 2d ed. 1970, p.  
211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.  
1978); *Enzo Biochem, Inc. v. Gen-Probe,*  
*Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.  
2005) (“Attorney argument is no  
substitute for evidence.”).

**Ruling: Sustained**

Objection No. 35:  
Para. 20:22-23  
“showing that he was not placed on one-  
on-one supervision until he assaulted  
another patient”

Speculative (Fed. R. Evid. 602);  
Lacks Foundation (Fed. R. Evid. 104);  
Prejudicial, confusing, waste of time  
(Fed. R. Evid. 403); Arguments of  
counsel are not evidence. 22 Fed. Prac.  
& Proc. Evid. § 5163 (1st ed.)(citing 1  
Devitt & Blackmar, Federal Jury  
Practice and Instructions, 2d ed. 1970, p.  
211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.  
1978); *Enzo Biochem, Inc. v. Gen-Probe,*  
*Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.  
2005) (“Attorney argument is no  
substitute for evidence.”).



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<b>Ruling: Sustained</b>
<p>Objection No. 36:          Para. 21:25-26          “showing her lack of personal knowledge surrounding the circumstances under which Patient No. 34 was placed on one-on-one supervision”</p>	<p>Speculative (Fed. R. Evid. 602);          Lacks Foundation (Fed. R. Evid. 104);          Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
<p>Objection No. 37:          Para. 23:7-8          “showing her lack of personal knowledge surrounding Patient No. 50’s 2009 admission and the fact that Patient No. 50 was not a patient in March of 2009”</p>	<p>Speculative (Fed. R. Evid. 602);          Lacks Foundation (Fed. R. Evid. 104);          Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1</p>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

**Ruling: Sustained**

Objection No. 38:  
Para. 24(a):11-12  
“showing that the patient had a treatment plan timely formulated during the patient’s admission”

Speculative (Fed. R. Evid. 602); Lacks Foundation (Fed. R. Evid. 104); Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. & Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt & Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) *Also see British Airways Bd. v. Boeing Co.*, 585 F.2d 946, 952 (9th Cir. 1978); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).

1		<b>Ruling: Sustained</b>
2		
3	Objection No. 39:	Speculative (Fed. R. Evid. 602);
4	Para. 24(b):16-17	Lacks Foundation (Fed. R. Evid. 104);
5	“showing that the patient had a treatment	Prejudicial, confusing, waste of time
6	plan timely formulated during the	(Fed. R. Evid. 403); Arguments of
7	patient’s admission”	counsel are not evidence. 22 Fed. Prac.
8		& Proc. Evid. § 5163 (1st ed.)(citing 1
9		Devitt & Blackmar, Federal Jury
10		Practice and Instructions, 2d ed. 1970, p.
11		211.) <i>Also see British Airways Bd. v.</i>
12		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
13		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
14		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
15		2005) (“Attorney argument is no
16		substitute for evidence.”).
17		
18		<b>Ruling: Sustained</b>
19		
20		
21	Objection No. 40:	Speculative (Fed. R. Evid. 602);
22	Para. 25(a):19-20	Lacks Foundation (Fed. R. Evid. 104);
23	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
24	regarding Patient No. 57’s treatment	(Fed. R. Evid. 403); Arguments of
25	plan”	counsel are not evidence. 22 Fed. Prac.
26		& Proc. Evid. § 5163 (1st ed.)(citing 1
27		Devitt & Blackmar, Federal Jury
28		

1		Practice and Instructions, 2d ed. 1970, p.
2		211.) <i>Also see British Airways Bd. v.</i>
3		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
4		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
5		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
6		2005) (“Attorney argument is no
7		substitute for evidence.”).
8		
9		<b>Ruling: Sustained</b>
10		
11		
12	Objection No. 41:	Speculative (Fed. R. Evid. 602);
13	Para. 25(b):22-23	Lacks Foundation (Fed. R. Evid. 104);
14	“showing her lack of personal knowledge	Prejudicial, confusing, waste of time
15	regarding Patient No. 57’s treatment	(Fed. R. Evid. 403); Arguments of
16	plan”	counsel are not evidence. 22 Fed. Prac.
17		& Proc. Evid. § 5163 (1st ed.)(citing 1
18		Devitt & Blackmar, Federal Jury
19		Practice and Instructions, 2d ed. 1970, p.
20		211.) <i>Also see British Airways Bd. v.</i>
21		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
22		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
23		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
24		2005) (“Attorney argument is no
25		substitute for evidence.”).
26		
27		<b>Ruling: Sustained</b>
28		

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	<p>Objection No. 42:</p> <p>Para. 26:26-27</p> <p>“showing that the patient was only placed on one-on-one monitoring after her attempted suicide”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v. Boeing Co.</i>, 585 F.2d 946, 952 (9th Cir. 1978); <i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i>, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”).</p> <p><b>Ruling: Sustained</b></p>
19 20 21 22 23 24 25 26 27 28	<p>Objection No. 43:</p> <p>Para. 27:2-3</p> <p>“showing her lack of personal knowledge of the facts surrounding Patient No. 15’s placement on one-on-one monitoring”</p>	<p>Speculative (Fed. R. Evid. 602);</p> <p>Lacks Foundation (Fed. R. Evid. 104);</p> <p>Prejudicial, confusing, waste of time (Fed. R. Evid. 403); Arguments of counsel are not evidence. 22 Fed. Prac. &amp; Proc. Evid. § 5163 (1st ed.)(citing 1 Devitt &amp; Blackmar, Federal Jury Practice and Instructions, 2d ed. 1970, p. 211.) <i>Also see British Airways Bd. v.</i></p>

1		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
2		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
3		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
4		2005) (“Attorney argument is no
5		substitute for evidence.”).
6		
7		<b>Ruling: Sustained</b>
8		
9		
10	Objection No. 44:	Speculative (Fed. R. Evid. 602);
11	Para. 28:6-7	Lacks Foundation (Fed. R. Evid. 104);
12	“showing that all of the one-on-one	Prejudicial, confusing, waste of time
13	orders were issued by physicians and	(Fed. R. Evid. 403); Arguments of
14	none were rescinded by the Director of	counsel are not evidence. 22 Fed. Prac.
15	Nursing”	& Proc. Evid. § 5163 (1st ed.)(citing 1
16		Devitt & Blackmar, Federal Jury
17		Practice and Instructions, 2d ed. 1970, p.
18		211.) <i>Also see British Airways Bd. v.</i>
19		<i>Boeing Co.</i> , 585 F.2d 946, 952 (9th Cir.
20		1978); <i>Enzo Biochem, Inc. v. Gen-Probe,</i>
21		<i>Inc.</i> , 424 F.3d 1276, 1284 (Fed. Cir.
22		2005) (“Attorney argument is no
23		substitute for evidence.”).
24		
25		<b>Ruling: Sustained</b>
26		
27	Objection No. 45:	Speculative (Fed. R. Evid. 602);
28		

xxx

1 Para. 29:9-10

2 “showing her lack of personal knowledge  
3 of the facts surrounding Patient No. 15’s  
4 placement on one-on-one monitoring”

Lacks Foundation (Fed. R. Evid. 104);  
Prejudicial, confusing, waste of time  
(Fed. R. Evid. 403); Arguments of  
counsel are not evidence. 22 Fed. Prac.  
& Proc. Evid. § 5163 (1st ed.)(citing 1  
Devitt & Blackmar, Federal Jury  
Practice and Instructions, 2d ed. 1970, p.  
211.) *Also see British Airways Bd. v.*  
*Boeing Co.*, 585 F.2d 946, 952 (9th Cir.  
1978); *Enzo Biochem, Inc. v. Gen-Probe,*  
*Inc.*, 424 F.3d 1276, 1284 (Fed. Cir.  
2005) (“Attorney argument is no  
substitute for evidence.”).

**Ruling: Sustained**

18  
19  
20 Dated: April 5, 2013

21  
22 

23 \_\_\_\_\_  
24 John A. Kronstadt  
25 United States District Judge  
26  
27  
28